



Public Notice

**U.S. Army Corps
of Engineers**
Pittsburgh District

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 200500586

Date: December 23, 2005

Notice No. 05-75

Closing Date: January 10, 2006

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. APPLICANT: West Virginia Department of
Environmental Protection
Abandoned Mine Lands & Reclamation
105 South Railroad Street
Phillipi, WV 26416
3. LOCATION: in an unnamed tributary and adjacent wetlands to North Branch Potomac River, near Thomas, Tucker County, West Virginia.
4. PURPOSE AND DESCRIPTION OF WORK: The Kempton Refuse & AMD Reclamation project proposes to reclaim the abandoned 26 acre Kempton Refuse Area which consist of scattered coal refuse piles, highwalls, and collapsed mine portals. The site has been adversely impacted by deep mining and surface mining activity. The project will consist of regrading the refuse to stabilize the site and facilitate revegetation, relocating and reconstructing 4,269 feet of three stream channels utilizing natural stream channel designs, including planting a riparian corridor with shrubs and trees, and constructing a passive treatment system to treat the degraded acidic mine water discharging into headwater unnamed tributaries to the North Fork of the Potomac River that are located on the site. The treatment system will include a successive alkaline producing system (SAPS), settling ponds, and polishing wetlands.

The project will result in the placement of fill material in 0.75 acres of open water and 0.63 acres of wetlands of which 0.42 acres are shrub/scrub wetlands and 0.21 acres of emergent wetlands. The wetlands are sparsely vegetated and degraded due to the contaminated mine water. Most of the wetland impacts, 0.59 acres, will be incurred by the treatment system. Alternative project designs were reviewed to allow for the creation of a replacement wetland downstream of the treatment system, however, it was determined that the size of the treatment system would have to be reduced to a size that it would not be effective. Proposed compensatory mitigation is the improved

water quality downstream of the project site. Drawings of the proposed project are attached to this notice.

5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any other appropriate State laws. Any person wishing to comment, provide information, and/or request a public hearing concerning certification for this project should write to the:

West Virginia Department of Environmental Protection
Division of Water & Waste Management
401 Certification Program
601 57th Street SE
Charleston, West Virginia 25304
Telephone: 304-926-0495

Re: Public Notice CELRP-OP-F No. 05-75

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider

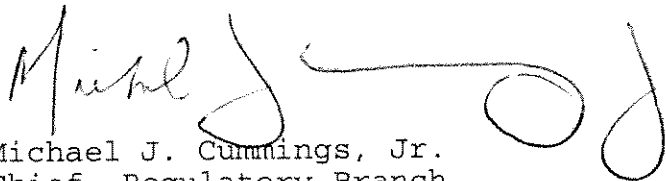
this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

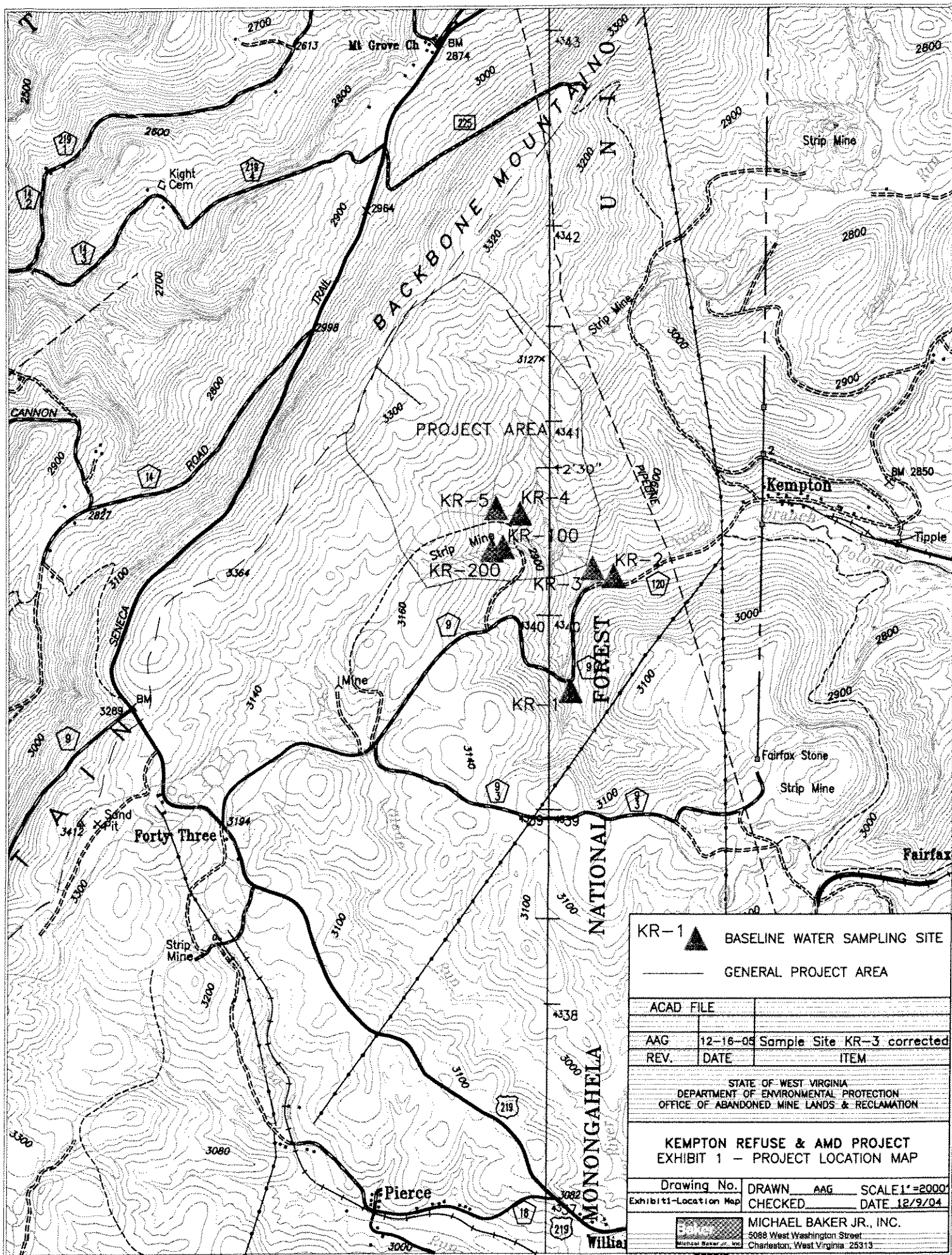
10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Marcia H. Haberman, at the above address, by telephoning (412) 395-7361, or by e-mail at Marcia.H.Haberman@usace.army.mil. Please refer to CELRP-OP-F 200500586 in all responses.

CELRP-OP-F
Public Notice No. 05-75

FOR THE DISTRICT ENGINEER:



Michael J. Cummings, Jr.
Chief, Regulatory Branch



KR-1 ▲ BASELINE WATER SAMPLING SITE
 — GENERAL PROJECT AREA

ACAD FILE		
AAG	12-16-05	Sample Site KR-3 corrected
REV.	DATE	ITEM

STATE OF WEST VIRGINIA
 DEPARTMENT OF ENVIRONMENTAL PROTECTION
 OFFICE OF ABANDONED MINE LANDS & RECLAMATION

KEMPTON REFUSE & AMD PROJECT
 EXHIBIT 1 - PROJECT LOCATION MAP

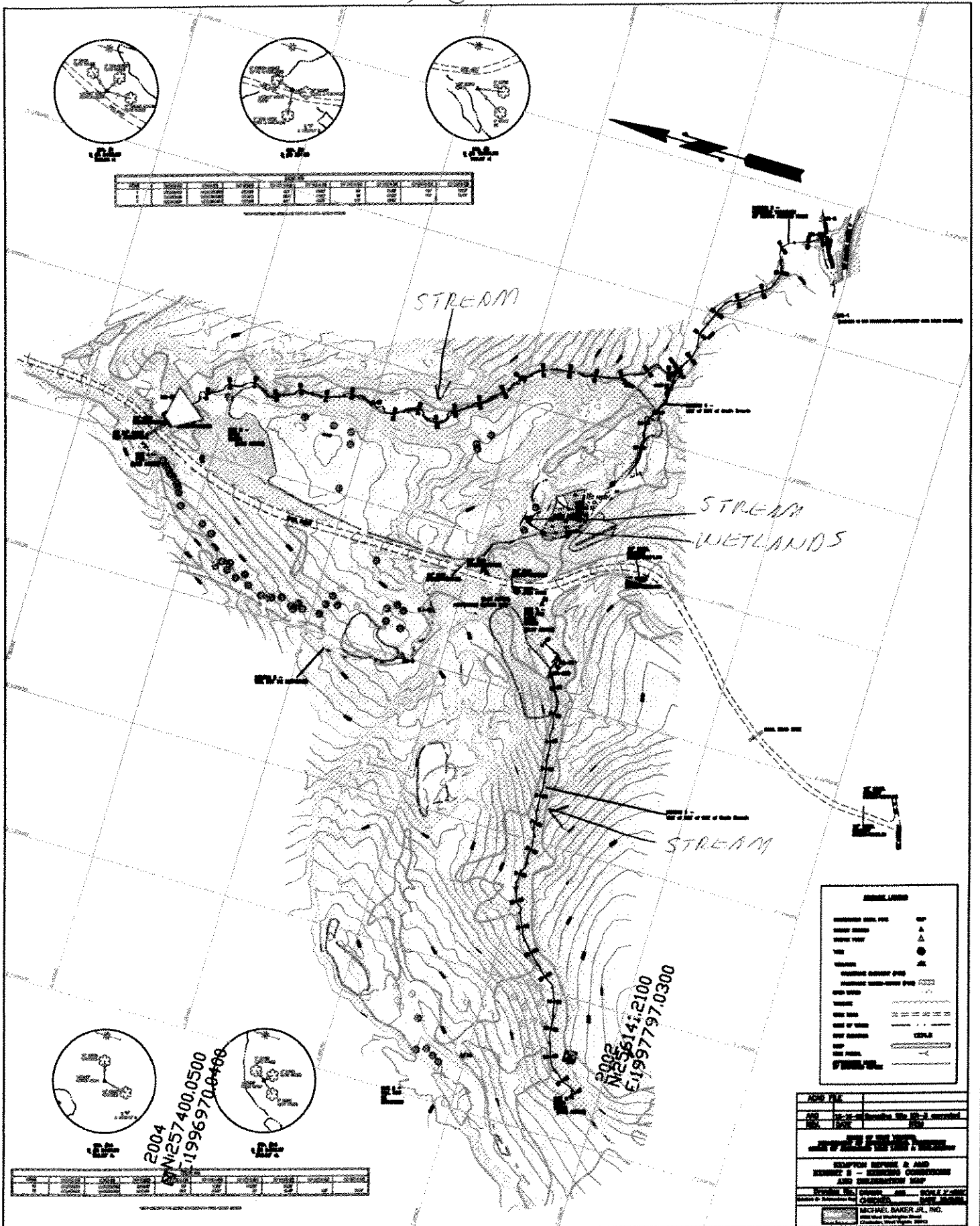
Drawing No.	DRAWN	AAG	SCALE 1"=2000'
Exhibit-Location Map	CHECKED		DATE 12/9/04



MICHAEL BAKER JR., INC.
 5088 West Washington Street
 Charleston, West Virginia 25313

D 11 75-7.5 2519

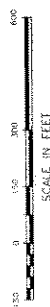
EXISTING CONDITIONS





LEGEND

- EXISTING CONTOUR
- EXISTING SPOT ELEVATION
- EXISTING RAILLINE
- EXISTING FENCE
- EXISTING ROAD
- PROPOSED ROAD
- TEST PIT
- UTILITY STATION
- UTILITY POINT
- SHADE
- PROPOSED RECLAMATION OF SCATTERED REFUSE
- PROPOSED CONSTRUCTION
- PROPOSED BIT GRABBER
- PROPOSED WETLAND DITCHES
- PROPOSED RAP LAND DITCH
- PROPOSED RAP LAND DITCH
- PERMANENT NAT LINED DITCH



DESIGNED: C.P.H. DRAWN: G.E.C. CHECKED: G.P.H. REVIEWED: N.K.C. A.C. CADD FILE		STATE OF WEST VIRGINIA DEPARTMENT OF ENVIRONMENTAL PROTECTION ABANDONED MINE LANDS & RECLAMATION SECTION MICHAEL BAKER JR., INC. CONSULTING ENGINEERS BEAVER, PENNSYLVANIA	Baker	KEMPTON REFUSE AND AND RECLAMATION PLAN	SHEET NO. 3 OF 58
			SCALE AS SHOWN	DATE APRIL, 2005	

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Table 3 -- Kempton Refuse Area Baseline Water Quality
Average from March 2002 through June 2004

Site	Flow (cfs)	Field pH	Total Acidity (mg/l)	Alkalinity (mg/l)	Total Iron (mg/l)	Total Manganese (mg/l)	Total Aluminum (mg/l)	TSS	Sulfate (mg/l)
KR-100	0.056	2.82	87.33	0.71	45.88	2.46	14.94	2	383.66
KR-200	0.139	3.48	39.39	0.83	0.35	2.50	5.59	1	125.25
KR-300	0.468	4.50	31.53	1.09	0.30	0.19	0.52	12	8.41
KR-1	1.363	6.66	30.31	77.73	1.21	0.01	0.79	28	6.73
KR-2	3.685	5.96	200.09	40.13	0.91	0.42	1.25	20	24.30
KR-3	1.697	3.89	261.63	0.71	1.41	1.29	2.58	2	43.10
KR-4	0.465	5.20	35.61	3.62	1.13	0.18	0.50	4	6.49
KR-5	0.530	4.29	14.30	1.00	0.13	0.08	0.70	1	5.00

Table 2
Baseline Water Quality Sampling Sites - P. 5/9

Site Number	Site Description
KR-100	Mine discharge at portal near mouth of Stream 1
KR-200	Mine discharge at portal upstream of KR-100
KR-300	Seep at head of Stream 3
KR-1	Head of North Branch of Potomac River

KR-2	North Branch of Potomac River downstream of confluence of Unnamed Tributary
KR-3	Unnamed Tributary of North Branch of Potomac River near mouth
KR-4	Stream 2 approximately 185 feet above culvert
KR-5	Stream 2 approximately 250 feet above KR-4